## REMARKS

Claims 1 through 12 are under consideration. Claim 1 has been amended. Reconsideration of all claims is respectfully requested.

In #1, the Office Action states that the prosecution is reopened. Applicant wants to clarify that the prosecution was opened on March 13, 2000, and since then has NOT been closed, but has remained open throughout. So the statement that "prosecution was reopened" is an incorrect representation.

In #3 the Action states:

" *Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Schwartz et al (US2001/0044787).* "

The Action then reproduces claims 1-6 in their entirety and provides specific citations from Schwartz et al as prior art to specific elements without any explanation, as follows:

*As per claim 1,*

*A data processing system for executing a secure e-financial transaction for an account, without disclosing any personal financial information, comprising:*

*a central controller including a CPU and a memory operatively connected to said CPU;/fig1(22,18,10); 0023*

*at least one terminal, adapted for communicating with said central controller, by transmitting the secure parameter to said central controller; /fig 2 (all); 0019*

*said memory in said central controller containing a program, adapted to be executed by said CPU, for executing e-financial transactions for the secure parameter, wherein the secure parameter is a password or code; /0019, 0020,0021,0024,0131*

*wherein said central controller receives the secure parameter from said terminal and executes the e-financial transaction for the account based upon the secure parameter, without requiring access to personal financial, banking or credit card information/abstract; 022 0076.*

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In response, applicant disagrees because the cited sections *fig1 (22,18,10); 0023; fig 2 (all); 0019; 0019, 0020,0021,0024,0131;and ; 022 0076* are not disclosed specifically or indirectly in the Provisional Application 60/176,390 from which the cited prior art claims priority.

Furthermore, applicant has carefully reviewed the cited paragraphs from Schwartz, and concludes that the present invention is clearly distinguishable from Schwartz, because: 1) Schwartz appears to maintain anonymity between the consumer and the merchant BUT does NOT maintain anonymity between the consumer and the secure private agent (SPA) or the SPA and the payment processing agent—as is the case in the present invention, and 2) Schwartz does not explicitly disclose the amounts of funds having the password security.

In other words, Schwartz lacks two essential elements of the present invention, and therefore cannot be used for a 35 U.S.C 102 rejection, based on case law, as explained below. Importantly, the Examiner seems to have overlooked the second half of claim 1 where the essential elements had been included, and have been more clearly defined by the current amendment in claim 1, so the Examiner will not miss them this time round, for example:

> financial, banking or credit card information:
>
> **said system comprising:**
> **a central controller located at a bank, said controller including a CPU and a memory operatively connected to said CPU;**
> **a client's input/output device purchased from the bank for a given amount, said device having a <u>secure</u> password <u>from the central controller</u> assigned to it and installed onto the client's computer;**
> **a merchant's website;**

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wherein the e-financial transaction starts with:

- the client browsing the merchant website, followed by placing an order using the password assigned to the client's input/output device,

- the merchant website relaying the input data to the central controller, and

- the central controller validating the client's password and order and authorizing or denying the order based on the client's input/output password for the account, without accessing any further personal data of the client.

According to the case law, for a rejection to be upheld under section 102 of 35 USC, "...every element of the claimed invention must be identically shown in a single reference'...these elements must be arranged as in claim under review" (In re Bond, 910 F.2$^{nd}$ 831, 15 USPQ 2$^{nd}$ 1566). In the present application, Schwartz does not have two essential elements of the present invention and therefore, there is no basis for the rejection under Section 102 based on Schwartz- it must be withdrawn.

Similarly the rejection of claims 2, 3, 4, 5 and 6, which are all dependent of claim 1, should be rejected for the above reasons.

<u>In #5 the Action states</u>:

"*Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz et al. (US 2001/0044787).... Schwartz et al discloses processing a program to execute the e-financial transaction transmitted by the secure password /0110;0103;0117;0204. However, Schwartz does not explicitly disclose the amount of funds having the password security.*

The Action reproduces Claims 7, 8, 9, 10, 11, 12 and cites specific citations of Schwartz, as basis of rejection of these claims. Claims 8 and 9 are dependent on claim 7. Claims 10, 11, 12 are independent and each of them includes the above (in bold) essential element absent in Schwartz. The Action then goes on to state:

"*Official notice is taken that this feature of the amount of funds having password security is old and well known in the e-commerce art. It would have been obvious to one*

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